



May 5, 2022

Ms. Ann E. Misback, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

Re: Docket No. OP-1747
Proposed Guidelines for Evaluating Account and Services Requests

Dear Ms. Misback:

As President/CEO of American Share Insurance (ASI), an Ohio-based company that presently insures the deposits of 104 state-chartered credit unions in 10 states across the nation, I am writing on behalf of the credit unions we insure.

On March 1, the Federal Reserve Board invited public comment on a supplement to its May 2021 proposal intended to ensure that Reserve Banks use a transparent and consistent set of factors when reviewing requests to access Federal Reserve accounts and payment services.

ASI filed comments on your original proposal on July 8, 2021. We are filing new comments based on the addition to your original proposal.

The new proposal offers a tiered review system. The Updated Proposal includes a new section 2 of the Account Access Guidelines, which would establish a three-tiered review framework to provide additional clarity regarding the review process for different types of institutions. Tier 1 would consist of eligible institutions that are federally-insured.

ASI insured institutions have a strong interest in ensuring that state-chartered, privately insured credit unions receive treatment in the Federal Reserve's account and services request process consistent with that applied to state-chartered, federally insured credit unions. As a result, we strongly believe that our insured institutions be treated as Tier 1 institutions in a review process under your new guidelines. This should be clearly stated.

We further would oppose subjecting current account holders to new standards when you take final actions on new rules.

ASI is supported in this view by the Credit Union National Association which filed comments on this issue, when it stated that "rigorous regulations and supervision in place for federally-insured depository institutions or privately-insured state-chartered credit unions would demonstrate adequate standards for ensuring the safe operation of the payments system."

ASI-insured credit unions are state-chartered, state-regulated and subject to the same regulatory requirements as are state-chartered, federally insured credit unions in their respective states. In all aspects, ASI-insured credit unions are regulated like all other state-chartered credit union – but, simply not federally insured.

ASI is an approved share guaranty corporation under Ohio law, subject to regulation by the Ohio Department of Commerce as well as regulation and annual licensure by the Ohio Department of Insurance.

In addition, ASI is also subject to regulation by state credit union regulators in its nine other states of operation. ASI has been successfully insuring credit union member deposits since 1974, and has been subject to specific federally-mandated operating and reporting requirements since 1991 with the passage of the FDIC Improvement Act of 1991, whose provisions have been regulated by the CFPB since 2011, and the Federal Trade Commission before that.

The Federal Deposit Insurance Act, as amended in 1991, also recognize state-chartered credit unions insured by a duly approved private deposit insurer (such as ASI), as "depository institutions" [12 U.S.C.1831t], which further subjects these non-federally insured credit unions to federal regulatory oversight by the CFPB.

Additionally, in 2015, as part of the FAST Act, P.L. 114-94, the U.S. Congress provided non-federally insured credit unions access to the Federal Home Loan Bank System, so it is evident that Congress has acknowledged our unique role in the credit union system as well as state-chartered, privately insured credit unions.

More recently, on April 24, 2020, legislation was signed into law which became Public Law 116-139. This act revised the PPP loan program and set aside \$30 billion for credit unions with assets of less than \$10 billion - which includes all privately insured credit unions. At the urging of many in Congress, PL 116-139 also changed the definition of a credit union in division A, Section 101 (d) (xii), and defined credits unions as including a "state credit union," as defined in Section 101 of the Federal Credit Union Act. This by definition includes all privately insured credit unions.

As additional background, credit unions operated from 1935 to 1971 absent *any* form of deposit (share) insurance. In fact, the earliest forms of deposit insurance for credit unions date back to 1958, and they were private, state-approved programs.

With the passage of Title II of the Federal Credit Union Act in 1970, however, the National Credit Union Share Insurance Fund (NCUSIF) was created to insure all federally chartered credit unions, while providing federal share insurance to those state-chartered credit unions electing to be federally insured.

It is important to note that under Title II of the Federal Credit Union Act, state-chartered credit unions are not required to be federally insured and are permitted to have other forms of state-approved deposit (share) insurance, such as ASI. ASI is currently the only insurer of this type in America and is insuring state-chartered credit unions whose individual members democratically voted to be ASI insured.

As to the issue of new accounts and services, the Board stated in its March 1 release of this new proposal that "institutions offering novel types of financial products or with novel charters have emerged in recent years and many have requested access to accounts and payment services offered by Federal Reserve Banks."

ASI insured credit unions clearly are not in this category.

In its previous proposal, the Board has also set forth six key principles for use in determining an applicant's access to its accounts and services. As we state in our letter of July 8, 2021, we believe our insured institutions conform to these principles. We identify them again.

1. ASI-insured credit unions are already eligible to be members of the Federal Reserve Bank. In fact, many are currently members and have enjoyed the services provided by their respective Reserve Banks for years.

2. Points two, three and four of the Board's request inquire as to the potential undue risk an applicant may pose to their respective Reserve Bank, the nation's payment system and the stability of the financial system as a whole. Our institutions pose no risk to any of these three subjects, since they are relatively small in size. As evidence, privately insured credit unions range in size from under 1\$ million to \$1.5 billion in total assets, with the average-sized privately insured credit union reporting total assets of \$170 million as of December 31, 2020

As to point five of the Board's request, ASI contends that our insured credit unions are currently compliant with all BSA/AML governing statutes and FinCEN rules, as attested to by state credit union regulators, and the IRS – which is FinCEN's designated federal authority for assessing the BSA/AML compliance of all privately insured credit unions.

4. Finally, as to the Board's sixth principle of advancing monetary policy. ASI credit unions serve a cross-section of America, including teachers, firefighters, police, government employees and small businesses, and many of our credit unions provide aid to unbanked, low-income communities. This service profile is the cornerstone of the credit union movement, and our insured credit unions are firmly committed to that mission.

In closing, we thank you for your consideration of our views and interest in the Federal Reserve's efforts to discourage misuse of the services afforded – and needed by- the traditional credit union industry, and hope that when the Federal Reserve takes additional regulatory action in this area, it will carefully consider the long standing and valuable contributions of our privately insured credit unions to our financial system and give them fair and equal evaluation compatible with that afforded all state-chartered credit unions in their account and services request process, as they have done in the past.

Sincerely,

A handwritten signature in black ink, appearing to read 'Theresa Mason', with a stylized, flowing script.

Theresa Mason
CEO
American Share Insurance

Cc: The Honorable Sherrod Brown
The Honorable Joyce Beatty